

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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CLAUDIO ORELLANA,

Plaintiff,

**ORDER**

-against-

23 Civ. 5315 (NSR) (AEK)

JOSE A. LOPEZ, JR., *et al.*,

Defendants.

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**THE HONORABLE ANDREW E. KRAUSE, U.S.M.J.**

The Court has received and reviewed the parties' recent letters, *see* ECF Nos. 68-72, which address the matters discussed at the September 18, 2024 conference and raise additional discovery issues. **An in-person conference is hereby scheduled for Friday, October 25, 2024, at 2:30 p.m. in Courtroom 250 to resolve any outstanding issues.**

(1) **Protective order:** Counsel for Dr. Merola was given the opportunity to submit a letter by September 30, 2024 regarding the need for a protective order to limit the dissemination of the affidavit that Dr. Merola has been ordered to produce in this case. *See* Minute Entry dated 9/18/24. Dr. Merola did not make any such submission. While the Court will reserve decision on this issue until the October 25, 2024 conference, it appears as though Dr. Merola does not believe it necessary to have a protective order in place.

(2) **Extension of deadlines for Plaintiff's rebuttal expert report and deposition:** Defendants' counsel has represented that the materials referenced by Dr. Reinhart in his expert report will be produced by October 28, 2024. *See* ECF No. 68 at 1. Accordingly, the deadline for production of Plaintiff's rebuttal expert report is hereby extended to December 4, 2024, and the deadline for deposing Plaintiff's rebuttal expert is extended to December 20, 2024.

(3) **New issues raised by Plaintiff:** Defendants are ordered to file their response to Plaintiff's letter motion (ECF No. 72) by October 18, 2024. **No further submissions regarding the parties' outstanding discovery disputes are to be filed.** While the Court also will reserve decision on these matters until the October 25, 2024 conference, the Court notes the following:

(i) With respect to the issue of the authenticity of the videos allegedly depicting the incident and the potential admissibility at trial of those videos and expert testimony predicated on those videos, these appear to be matters that should be raised as motions *in limine* in advance of trial, which therefore would be addressed to Judge Román when he sets a schedule for pretrial submissions.

(ii) With respect to the issue of whether Defendants' expert Dr. Casden can be compelled to produce all of his reports from cases in the last 10 years in which he was designated, appeared, or was involved as an expert, it does not appear, from any of the submissions to date, that Plaintiff has served a proper and timely discovery request for these documents which could form the basis for a motion to compel. This is in contrast to the case Plaintiff cites, *Seawolf Tankers Inc. v. Laurel Shipping LLC*, 345 F.R.D. 55, 57-58 (S.D.N.Y. 2023), in which the party making the motion to compel had served a "Request for Production of Expert Documents" immediately after taking the expert's deposition. Moreover, the Court notes that the discovery order in *Seawolf Tankers* was limited—the court rejected most of the discovery demands, and only allowed production of reports that "involve[d] similar factual circumstances to those presented in [that] case." *Id.* at 59.

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Finally, the parties are directed to request an adjournment of the October 18, 2024 conference with Judge Román—which is intended to be a post-discovery conference—to a date after the newly established December 20, 2024 deadline for completion of all discovery.

Dated: October 16, 2024  
White Plains, New York

**SO ORDERED.**



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ANDREW E. KRAUSE  
United States Magistrate Judge